

## Message Text

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ORIGIN EA-10

INFO OCT-01 ISO-00 SP-02 AID-05 EB-07 NSC-05 CIEP-01

TRSE-00 SS-15 STR-04 OMB-01 CEA-01 CIAE-00 COME-00

FRB-03 INR-07 NSAE-00 USIA-06 XMB-02 OPIC-03 LAB-04

SIL-01 L-03 H-02 PA-01 PRS-01 /085 R

DRAFTED BY EA/IMS:ARDORNHEIM:SG

APPROVED BY EA:LEEDMOND

EB/IFD/OIA - MR. BRODERICK

L/C - MR. HENDERSON

L/EA - MR. NORTON

EA/IMS - MR. INGRAHAM

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R 021440Z JUL 75

FM SECSTATE WASHDC

TO AMEMBASSY JAKARTA

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E.O. 11652: N/A

TAGS: CPBS, BEXM, EINV, ETRD, ID

SUBJECT: P.T. BAUD CLAIM

REF: JAKARTA 7417

1. DEPUTY ASSISTANT SECRETARY EDMOND RAISED P.T. BAUD CASE DURING JUNE 20 MEETING WITH INDONESIAN AMBASSADOR RUSMIN AND ECONOMIC COUNSELOR ADIWOSO, FOLLOWING DISCUSSION OF VARIOUS OTHER ECONOMIC TOPICS.

2. EDMOND TRACED SEQUENCE OF RECENT DEVELOPMENTS IN CASE, FROM MINISTER WARDHANA'S JANUARY 28 LETTER OF "FINAL OFFER" TO SULLIVAN'S APRIL 24 RESTATEMENT  
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OF HIS CLAIM. HE NOTED THAT USG WISHED CLAIM BE SETTLED SO AS TO BE FAIR TO BOTH SIDES IN MANNER THAT WOULD BE CONDUCIVE TO GOOD U.S.-INDONESIAN RELATIONS. AS LONG AS CLAIM WAS BEING PRESSED

VIGOROUSLY IN CONGRESS, WHITE HOUSE AND WITH QUASI-INDEPENDENT U.S. LENDING AGENCIES, HE SAID, ITS POTENTIAL FOR CREATING DIFFICULTIES IN WASHINGTON REMAINED.

3. DISCUSSING SULLIVAN'S APRIL 24 LEGAL PACKAGE, EDMOND REMARKED THAT SEVERAL NEW PIECES OF EVIDENCE HAD BEEN SUBMITTED, INCLUDING A DOCUMENT PURPORTING TO SHOW THAT P.T. BAUD DID IN FACT COMPLY WITH THE GOI DEADLINE FOR SUBMITTING CLAIMS. WITHOUT STATING AN OPINION, EDMOND SAID, WE HOPED GOI WOULD GIVE SERIOUS CONSIDERATION TO SULLIVAN'S APRIL 24 PRESENTATION AND WOULD IN DUE COURSE PROVIDE A CONSIDERED, SUBSTANTIVE RESPONSE.

4. ADIWOSO REPLIED THAT ALL OTHER IMPORTANT CLAIMS RESULTING FROM SUKARNO-ERA NATIONALIZATIONS HAD LONG SINCE BEEN SETTLED BY GOI TO CLAIMANTS' SATISFACTION. HE SAID THAT BAUD CLAIM WAS ONE OF VERY FEW EXPROPRIATION CASES WHICH HAD BEEN REVIEWED BY PRESIDENT SUHARTO, WHO PERSONALLY APPROVED CONTENT WARDHANA'S JANUARY 28 LETTER. ADIWOSO ADDED THAT GOI WAS PLANNING TO WAIT ABOUT 90 DAYS BEFORE REPLYING TO SULLIVAN, AND HE DOUBTED THAT THERE WOULD BE ANY MAJOR CHANGE IN GOI'S POSITION.

5. CONTINUING, ADIWOSO SAID GOI FELT CONFIDENT THAT ITS POSITION WOULD BE SUPPORTED IN ANY ARBITRAL PROCEEDING. HE STATED THAT HE HAD PERSONALLY SUGGESTED ARBITRATION TO SULLIVAN AT A LUNCH LAST OCTOBER AS ONE WAY TO ACHIEVE AMICABLE SETTLEMENT, BUT THAT SULLIVAN HAD REPLIED ARBITRATION WOULD BE TOO EXPENSIVE AND LENGTHY. ASKED BY EDMOND WHETHER GOI WOULD BE PREPARED ACCEPT ARBITRATION, ADIWOSO INDICATED THAT IT WOULD.

6. IN SUBSEQUENT PHONE CONVERSATIONS, SULLIVAN  
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DENIED TO EA/IMS THAT ADIWOSO HAD MADE ANY OFFER OF ARBITRATION; AND ADIWOSO LATER ACKNOWLEDGED THAT HIS COMMENTS COULD NOT BE CONSIDERED AS FORMAL OFFER TO ARBITRATE. SULLIVAN NEVERTHELESS HAS GIVEN SOME THOUGHT TO THIS POSSIBILITY, SINCE HE MENTIONED TO EA/IMS HYPOTHETICAL CONDITIONS SEA OIL MIGHT INSIST UPON IN ARBITRATION TO ENSURE PROMPT AWARD AND GUARANTEED GOI PAYMENT, NAMELY AN ARBITRAL DECISION WITHIN 90 DAYS AND A GOI ESCROW DEPOSIT OF \$22 MILLION IN A U.S. BANK.

7. WITH REGARD CONGRESSMAN PASSMAN'S INTEREST IN

CASE, ADIWOSO TOLD US THAT PASSMAN HAD MENTIONED  
P.T. BAUD CLAIM IN BRIEF ENCOUNTER WITH HIM AT

RECENT SUBCOMMITTEE HEARING. OTHERWISE, DESPITE  
HIS MANY NEGATIVE COMMENTS ON AID TO INDONESIA,  
PASSMAN IS NOT KNOWN TO HAVE ALLUDED TO BAUD CLAIM  
IN HIS HEARINGS.

8. SULLIVAN TESTIFIED JUNE 24 BEFORE INOUE SUB-  
COMMITTEE ON FOREIGN OPERATIONS. HE CITED GOI'S  
\$450,000 TAKE-IT-OR-LEAVE-IT OFFER AND LACK OF  
RESPONSE SO FAR TO HIS REJECTION OF THAT OFFER,  
PLUS DELAY/DENIAL JUSTICE FOR EIGHT YEARS, AS  
EVIDENCE THAT GOI HAD "BROKEN NORMS OF CONDUCT"  
FOR STATES. HE ASSERTED THAT SEA OIL HAD NO RECOURSE  
EXCEPT TO SEEK "APPLICATION OF U.S. POLICY" AS  
LAID DOWN IN HICKENLOOPER AND GONZALES AMENDMENTS  
AND PRESIDENTIAL POLICY STATEMENT OF JANUARY 19,  
1972. IN HIS TESTIMONY HE STATED THAT SEA OIL  
IS 82 PERCENT OWNED BY U.S. CITIZENS. HE ALSO  
REMARKED CRYPTICALLY THAT, "EVEN REPEATED INTER-  
VENTION BY U.S. AMBASSADOR IN JAKARTA HAS NOT  
SUCCEEDED IN PERSUADING RELEVANT MINISTER TO RE-  
CEIVE (VISITING) CORPORATION OFFICERS." INOUE  
ASKED IF SEA OIL HAD SOUGHT REDRESS IN INDONESIAN  
COURTS. SULLIVAN REPLIED NO, CLAIMING COURTS  
COULD NOT BE EXPECTED TO JUDGE FAIRLY ANY ACTS  
OF GOI. INOUE DID NOT ASK ABOUT ARBITRATION.  
INOUE HAS ASKED FOR INFORMATION FROM DEPARTMENT  
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REGARDING CASE, WHICH WE ARE IN PROCESS OF SUPPLYING.

9. SULLIVAN HAS NOT YET TESTIFIED BEFORE PASSMAN  
AND GONZALEZ SUBCOMMITTEES.

10. RE POSSIBLE ACTIONS DISCUSSED AT JUNE 5  
MEETING BETWEEN LEGAL ADVISOR LEIGH AND AMBASSADOR  
NEWSOM, LEIGH HAS SUBSEQUENTLY LEARNED THAT POS-  
SIBILITY OF PRESIDENTIAL SUBMISSION OF SEA OIL  
CLAIM TO FOREIGN CLAIMS SETTLEMENT COMMISSION  
FOR EVALUATION UNDER HICKENLOOPER AMENDMENT DOES NOT  
EXIST, SINCE PRESIDENTIAL REQUEST MUST BE MADE  
WITHIN 70 DAYS AFTER ACT OF NATIONALIZATION OR  
EXPROPRIATION.

11. WE ARE KEEPING UNDER ACTIVE CONSIDERATION  
POSSIBILITY OF SUGGESTING TO SULLIVAN'S ATTORNEY,  
WILLIAM ROGERS, THAT MEMBER OF HIS LAW FIRM GO TO  
INDONESIA TO DISCUSS CASE. INGERSOLL

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<< END OF DOCUMENT >>

## Message Attributes

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